



San Benito County Workforce Development Board (WDB)

1111 San Felipe Road, Suite 107 * Hollister, CA 95023

February 13, 2018 @ 3:00 P.M.

Executive Committee Workforce Development Board Meeting

AGENDA

FOR THE HEALTH AND SAFETY OF STAFF & GUESTS ALL MEETINGS ARE FRAGRANCE FREE

I. GENERAL INFORMATION:

II. Public Comment Period: Guests may introduce themselves and request to comment on any non-agenda items. Time is limited to five minutes per guest unless the board determines that more time is needed

III. Regular Agenda:

A. **Roll Call:** Roll will be taken to determine excused absences for attendance requirements.

B. **Executive Committee Meeting:** December 12, 2018 Executive Committee meeting minutes are enclosed for review and approval.

C. **Full WDB Meeting Minutes:** January 9, 2018 full WDB meeting minutes are enclosed for board information.

IV. CONSENT AGENDA:

A. **Board Announcements:**

V. DISCUSSION/ACTION ITEMS:

A. **Board Membership:** Any applications received may be reviewed for appointment to the board. Current vacancies: Business Representatives (4). Requesting assistance from all Board members with recruitments.

B. **Policies & Procedures:** **Enclosed** are the Non-Discrimination and Reasonable Accommodation Policies & Procedures to be reviewed and approved by the board. **Action Required.**

C. **Rapid Response and Lay-Off Aversion Services:** **Enclosed** is a summary report for your information.

D. **Bay Peninsula Regional Planning Unit:** The Region was awarded \$500,000 for the Regional Plan Implementation (RPI) Application submitted. San Benito County's allocation will be \$79,925 to provide Business Services throughout the regional area. **Enclosed** is the award letter.

E. **Prop 39 (Pre-Apprenticeship Program):** A second round of funding has been awarded to Monterey, Santa Cruz and San Benito Counties in the amount of \$385,000. San Benito County's allocation will be \$28,922. **Enclosed** is the budget.

F. **Committee Updates:** Updates may be provided on the following committees:

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1. **Executive Committee:** Request approval for Karen Para to serve as Secretary and Richard Perez Sr. to serve as Vice-Chair. *Action is required*
 2. **Youth Committee:** Staff and members will report on the California Workforce Association (CWA) Youth Conference attended by Ruby Soto, Sylvia Jacques and Richard Perez Sr. on January 9th thru 11th, 2018 in Sacramento.
 3. **Job Fair Committee:** AJCC will assist with the job seeker component of the job fair by providing laptops for online applications. **Enclosed** is information on this event scheduled for April 12, 2018 from 3:00 pm to 7:00 pm at the Veteran's Bldg. Get more info: juli@sanbenitocountychamber.com.
 4. **WIOA Section 188 Annual On-Site Compliance Monitoring Review:** Staff will provide an update on the review that was conducted on January 25, 2018.
 5. **One-Stop and Business Services Websites Committee:** Staff will provide an update on the follow-up with HHS IT on updating the sites: www.sbcjobs.org - www.sanbenitobsc.org.
 6. **Agricultural AdHoc Committee:** Staff and members will provide an update on the proposed trainings.
- G. **America's Job Center of California (AJCC) Operator:** **Enclosed** is a summary report from David Mirrione, AJCC Operator.

IV. **Additional Information:**

- A. **2018 Meeting Calendar:** **Enclosed** for WDB info.
- B. **Annual Filing of Form 700:** Annual filing due April 15, 2018. All board members should have received an e-mail reminder from e-disclosure.
- C. **Workforce Services Directives and Information Notices:** Provided for WDB information were links to the most recent Workforce Services Directives. There are now updates for 2018. [WSD17-06](#) and Information Notices [WSIN20 thru WSIN17-20](#). Summary enclosed.
- D. **AB124 Ethics Training:** Individuals needing to complete the ethics training have been notified. NEW LINK to complete the ethics training is: <http://localethics.fppc.ca.gov/login.aspx>.

V. **Adjournment:**

The next Executive Committee meeting is scheduled on March 13, 2018, **Ste. 107** – 3 P.M.

The next Full WDB meeting is April 10, 2018, **Ste. 108** at 3 P.M.



San Benito County Workforce Development Board (WDB)

1111 San Felipe Road, Suite 107 * Hollister, CA 95023

December 12, 2017 @ 3:00 P.M.

Executive Committee - Workforce Development Board

MINUTES

FOR THE HEALTH AND SAFETY OF STAFF & GUESTS ALL MEETINGS ARE FRAGRANCE FREE

Present: Richard Bianchi, Kendra Bobsin, Kristina Chavez Wyatt, James Rydingsword
Absent: Alex Arias, Carrie Fosdick, Albert Orosco
Guests: Richard Perez
Staff: Andi Anderson, Sylvia Jacquez, Ruby Soto

Co-Chair, Richard Bianchi, called to order at: 3:07 P.M.

I. GENERAL INFORMATION:

II. Public Comment Period: No public comments were received.

III. Regular Agenda:

- A. **Roll Call:** Roll was taken to determine excused absences for attendance requirements. Individuals who called in were excused by the co-chair.
- B. **Executive Committee Meeting:** September 12, 2017 Executive Committee meeting minutes approved as presented. There was no meeting on November 14, 2017 due to lack of quorum. *M/S/C James Rydingsword/Richard Bianchi*
- C. **Full WDB Meeting Minutes:** October 10, 2017 full WDB meeting minutes are enclosed for info only.

IV. CONSENT AGENDA:

A. Board Announcements:

- 1. **Lunch and Learn Event:** Staff and members reported on the Lunch and Learn event held on November 8, 2017 from 11:30 am to 1:00 pm. The AJCC presentation is enclosed. Richard Perez, Sr. attended. He stated it was mostly staff from the Chamber in attendance. There was only one employer in attendance. He felt it would have been nice to have better attendance and if held again it would be nice to have the event early in the morning and provide breakfast. Kristina Chavez Wyatt thanked staff and the board for offering the opportunity to leverage resources within the community in order to partner and grow programs.

V. DISCUSSION/ACTION ITEMS:

- A. **Adult & Dislocated Worker Career Services Provider:** Staff is requesting approval from the WDB to be the provider of Adult and Dislocated Worker Career Services. Sylvia explained that under WIOA it is required that the One-Stop Operator

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procured and CSWD did procure an operator with a contract with David Mirrone. The request is that the local areas are allowed to keep the status quo to continue to provide the career services as they have done and go through the appropriate channels for the AJCC to continue to operate the services. Sylvia explained which services fall under WIOA and that the services have been provided by CSWD for many years and they would like to continue to do so for the local workforce area. Staff has maintained performance measures in order to be certified as a provider. After discussion the Ex Committee approved the staff recommendation to continue to provide the Adult and Dislocated employment services locally. *M/S/C Kendra Bobsin/Kristina Chavez Wyatt.*

- B. **Policies & Procedures:** Staff requested the **enclosed** On-the-Job Training (OJT) Policy be reviewed and approved. This policy will be included in the Policy & Procedures Manual that was approved at the September meeting. Sylvia explained the program and how most employers don't utilize this program as they prefer to utilize the Work Experience Program (WEP). Employers may be able to WEP and OJT based on varying criteria. Sylvia explained the process for an employer to place a job order. After discussion the Ex Committee approved the OJT Policy as presented. *M/S/C Kendra Bobsin/Kristina Chavez Wyatt.*
- C. **Board Membership:** Any applications received may be reviewed for appointment to the board. Current vacancies: Adult Education, Business Representatives (4). Requesting assistance with recruitments.
1. **Applications:** Two applications were **enclosed** to fill the vacancy for Adult Education. Since the WDB no longer is required to have a youth representative, it was requested to have Richard Perez reach out to Charles Oles to see if he is interested in serving on the Youth Committee, or if he may be a small business owner, he could serve on the board to fill a small business owner vacancy. After discussion the Ex Committee accepted the application from Randy Brown to fill the vacancy for Adult Education. His application will be forwarded to the Board of Supervisors for final appointment to the board. *M/S/C Kendra Bobsin/Kristina Chavez Wyatt.*
 2. **Term Expiration:** The term of Duane Bradford is due to expire January 8, 2018. He has agreed to serve for another 3 years. After discussion the board approved the re-appointment of Duane Bradford to the WDB for another 3 year term. *M/S/C Kristina Chavez Wyatt/Kendra Bobsin.*
 3. **Rapid Response and Lay-Off Aversion Services:** Discussion was held at the previous meeting on the services provided by AJCC. There are workshops being provided on Resume Writing & Job Interview skills and financial literacy. These are activities ranked at top 3 of the survey. Another area was business services training. At this time in-house staff can coordinate those workshops in collaboration with Small Business Development and other entities. A meeting is scheduled for December 13, 2017 to discuss moving forward. Business engagement is another area that can be conducted in-house. Staff will go out and meet with businesses. Staff located in the lobby at AJCC can ask clients coming in what company they are coming from in order to see if they would require rapid response services. Kristina Chavez Wyatt would like to team up with staff, leaders and board members and begin to meet and greet and let businesses know about

services available to them. Connect with the department of finance with the City of Hollister to see if they can share information on new business opening in San Benito County to WDB.

D. **Committee Updates:** Updates may be provided on the following committees:

1. **Executive Committee:** Carrie is no longer able to attend these meetings and it is requested a volunteer from the Private Sector replace her on this committee. Enrique was going to reach out to Karen Parra, Jose Rodriguez and Richard Perez to see if they were interested. Richard said he could fill in until a permanent appointment is made. A motion was made to have Karen Para replace Carrie Fosdick on the Executive Committee and if she isn't able to take the position they would then appoint Richard Perez to the Ex Committee. *M/S/C Kristina Chavez Wyatt/Kendra Bobsin.*
 2. **Youth Committee:** Members will provided an update. Richard stated he is attending the CWA Youth Conference next week (more info included below). Discussed was working with juveniles who have a record and are finding it difficult to find a job. Richard Peres is looking into the possibility of receiving pro-bono services in order to help them to get their cases expunged. He will connect with attorney, Elvira Robinson, to see is she would be willing to do some pro-bono work help these youth. The main thing youth need is supportive adults to help mentor them. Staff requested to be included in the Youth Committee meeting so that they can have information on what is being discussed and provide some input.
 3. **Job Fair Committee:** There was a meeting with the Chamber on October 11, 2017. Discussed was the WDB's input on not charging employers. An e-mail was received from the director of the Chamber indicating that they aren't willing to move forward with the non-fee and are looking to charge \$150 per booth for everyone. Each year the AJCC assists with \$4000 to help offset the cost. If AJCC isn't interested in participating they will move forward on their own. Motion to separate from the Chamber and have our own Job Fair. *M/S/C Richard Bianchi/James Rydingsword.*
 4. **One-Stop and Business Services Websites Committee:** Members will schedule a meeting review and update websites www.sbcjobs.org & www.sanbenitobsc.org. Charles Doan is the current web designer and his contract expires in 2018. County IT has been contacted and is willing help. Schedule a meeting for after the holidays.
 5. **Agricultural AdHoc Committee:** Staff and members were provided an update on the **enclosed** survey. There was a presentation this week and West Valley College is looking at providing training locally and are seeking training locations. Kristina stated she provided some suggestions.
- E. **America's Job Center of California (AJCC) Operator:** The partner meeting was held on December 6, 2017 from 2:30 p.m. to 4:00 p.m. Sylvia stated the meeting was held and David Mironne provided survey results that were completed by partners. A copy will be provided to board members. David is proactive and has been very helpful with reviewing the Policies & Procedures. He also helped with the Work2Future website and he may be able to provide some insight.

- F. **AJCC Certification Process**: Letter [attached](#). Sylvia provided information on corrective actions and the timeline to complete corrective action. Since the AJCC isn't allowed to self-certify staff has partnered with NOVA in order to review each other's certification. There were 2 items needing attention and staff is working on completing the baseline criteria before the deadline of December 31, 2017.

IV. **Additional Information**:

- A. **California Workforce Association (CWA) Youth Conference**: Scheduled for January 9th thru 11th, 2018 in Sacramento.
- B. **Workforce Services Directives and Information Notices**: Provided for WDB information are links to the most recent Workforce Services Directives NONE and Information Notices [WSIN17-10 thru WSIN17-17](#). Summary enclosed.
- C. **AB124 Ethics Training**: Individuals needing to complete the ethics training have been notified. NEW LINK to complete the ethics training is: <http://localethics.fppc.ca.gov/login.aspx>

- V. **Adjournment**: M/S/C Kristina/Richard 4:25 P.M.

The next Full WDB meeting is January 9, 2018, Suite 108 at 3 P.M.

The next Executive Committee meeting is scheduled on February 13, 2018, Ste. 107 – 3 P.M.



San Benito County Workforce Development Board (WDB)

1111 San Felipe Road, Suite 108 * Hollister, CA 95023

January 9, 2018 @ 3:00 P.M.

Full Workforce Development Board Meeting

MINUTES

FOR THE HEALTH AND SAFETY OF STAFF & GUESTS ALL MEETINGS ARE FRAGRANCE FREE

- Present: Kristi Alarid, Richard Bianchi, Kendra Bobsin, Duane Bradford, Sherrean Carr, Kristina Chavez Wyatt, James Dion, Al Gonzalez, Andy Hartman, Jose Rodriquez, James Rydingsword
- Absent: Carrie Fosdick, Albert Orosco, Karen Para, Richard Perez
- Staff: Andi Anderson, Enrique Arreola

Co-Chair, Richard Bianchi, called the meeting to order at 3:05 P.M.

I. **GENERAL INFORMATION:**

II. **Public Comment Period:**

- A. **County Jail:** Al Gonzalez spoke about the new County Jail and construction that began in August 2017. He stated his concerns about the lack of locals being hired for the project. He stressed the importance of the WDB taking a more hands on approach in future building projects to ensure that contractors are hiring locally and paying the prevailing wage. Many locals are expressing their interest in working locally and how they are missing out on an opportunity to work locally. Andy Hartman stated it isn't so much about who the contractor is, but more about locals being hired to do the work. Kristina Chavez Wyatt suggested this be revisited at the next full WDB meeting and in the meantime request to have staff meet with Adam Goldstone to discuss local preference for local hiring and contracting to be added to any future contracts. There needs to be more local communication and possibly Policy & Procedures for hiring locally implemented.
- B. **ATT Pro AM:** Andy Hartman stated there is need for 38 individuals working in electrical are several positions available Feb 5-11, 2018 at the AT&T Pro AM. Pay is \$32hr. Staff will help promote the event through the AJCC Facebook page and in-house.
- C. **Regional Meeting Prop 39:** Andy Hartman reported additional funding has been received in the amount \$385,000 for the Tri-County. This will provide another round of local training. Jim Rydingsword will email BOS and request to announce to the BOS at the January 23rd meeting. Have Andy Hartman attend to speak briefly. Individuals interested in applying can do so at the website www.apprenticeprep.org.

III. **Regular Agenda:**

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- A. **Roll Call**: Roll was taken to determine excused absences for attendance requirements. Individuals who called in were excused by the chair.
- B. **Full WDB Meeting Minutes**: October 10, 2017 full WDB meeting minutes were approved. *M/S/C Kristi Alarid/Al Gonzalez.*
- C. **Executive Committee Meeting**: December 12, 2018 Executive Committee meeting minutes are enclosed for board information.

IV. **CONSENT AGENDA**:

- A. **Board Announcements**:

V. **DISCUSSION/ACTION ITEMS**:

- A. **Adult & Dislocated Worker Career Services Provider**: Enrique Arreola stated this was an action item on last month's meeting and was approved by the WDB. The letter, which was inadvertently left off the agenda and is now enclosed, was submitted to the State WDB requesting CSWD to be the provider of Adult and DW Career Services. Once final approval has been submitted by the State the WDB will be updated.
- B. **Board Membership**: Any applications received may be reviewed for appointment to the board. Current vacancies: Business Representatives (4). Requesting assistance from all Board members with recruitments.
 - 1. **Resignation**: Enclosed was a letter of resignation from Alex Arias. Enrique did speak with Alex and it was a difficult decision for him to leave the WDB and stated he was very apologetic. Kristina Chavez Wyatt suggesting the board ask when he may be in the area for those available to join him for lunch and thank him for his service on the board. Due to Alex's resignation there is a need to appoint a new Chair. Kristina nominated Richard Bianchi and he accepted. *M/S/C Kristina/Kendra.* The WDB approved the appointment of Richard Perez as Vice-chair *M/S/C Kendra/Andy.*
- C. **Rapid Response and Lay-Off Aversion Services**: Staff provided an update. Services will be provided in-house on the following: Business engagement, employment readiness workshops and _____. Megan Crable, AJCC Business Representative, will be engaging with local businesses to develop workshops. There is about \$30,000 to provide these services.
- D. **Committee Updates**: Updates may be provided on the following committees:
 - 1. **Executive Committee**: Staff contacted Karen Para and she agreed to replace Carrie Fosdick on the Executive Committee.
 - 2. **Youth Committee**: Richard and Sylvia are at the Youth Training this week with Sylvia. They will report back next month.
 - 3. **Job Fair Committee**: Enclosed was the email sent to the Chamber of Commerce regarding WDB participation at their job fair. AJCC will help with the job seeker component of the job fair by providing laptops for online applications.
 - 4. **One-Stop and Business Services Websites Committee**: Kristina reported that a brief meeting was held with HHS IT to review the sites on January 8, 2018. They viewed www.sbcjobs.org - www.sanbenitobsc.org. Before moving forward the WDB wants to see where County is with their website update and how the

new site would jive with the County & HHSa umbrella. Also discussed is whether the site would function independently but have a similar layout and feel. Also discussed was the need for an updated logo. There were some drafts submitted that were close to meeting the need. If a sight is designed we could include that in a proposal as part of the contract.

5. **Agricultural AdHoc Committee**: An update was provided on the proposed trainings and several meetings have been held to discuss next steps for determining the appropriate trainings for our community. A PowerPoint presentation was enclosed.
- E. **America's Job Center of California (AJCC) Operator**: Enclosed was the presentation and meeting minutes provided by David Mirrione during the December 6, 2017 meeting. Enrique stated David Mirrione is attempting to identify needs of the center to include: technology, WiFi access, partners, wider range of clients, families, children in the center. There is also a need to update the computers and quotes are being sought.

IV. **Additional Information**:

- A. **California Workforce Association (CWA) Youth Conference**: Ruby Soto Sylvia Jacquez and Richard Perez are attending the conference January 9th thru 11th, 2018 in Sacramento and will report back at the next meeting.
- B. **Workforce Services Directives and Information Notices**: Provided for WDB information were links to the most recent Workforce Services Directives **WSD17-06** and Information Notices **WSIN17-18 thru WSIN17-20**. Summary enclosed. Discussed were the funds for Veterans and if CSWD is applying for them. Enrique shared on the NEG grant that was received several years ago and it was very challenging finding the veterans to be able to provide services to. This may be something the local Veteran's office may already be providing.
- C. **AB124 Ethics Training**: Individuals needing to complete the ethics training have been notified. NEW LINK to complete the ethics training is: <http://localethics.fppc.ca.gov/login.aspx>
- D. **Success Story**: A client success story was shared.

V. **Adjournment**: *M/S/C Kristina/Kendra 3:49 P.M.*

The next Executive Committee meeting is scheduled on February 13, 2018, **Ste. 107** – 3 P.M.

The next Full WDB meeting is April 10, 2018, **Ste. 108** at 3 P.M.

Nondiscrimination & Equal Opportunities Procedures

PURPOSE

This document establishes the policy on the nondiscrimination and equal opportunity procedures for the Workforce Innovation and Opportunity Act (WIOA) Title I. It also issues a standard discrimination complaint form that is available for use when processing a discrimination complaint.

References

- EDD Directive WSD17-01
- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128) Sections 121(b), 183(c), and 188
- *Civil Rights Act of 1964* (Public Law 88-352) Titles VI and VII
- *Education Amendments of 1972* (Public Law 92-318) Title IX
- *Rehabilitation Act of 1973* (Rehab Act) (Public Law 93-112) Title V, Section 504
- *Age Discrimination Act of 1975* (Public Law 94-135)
- *Americans with Disability Act of 1990* (ADA) (Public Law 101-336)
- Title 20 *Code of Federal Regulations* (CFR) Section 658.400
- Title 28 CFR Part 35, Subpart A
- Title 29 CFR Parts 31, 32, 34, 38, and 1690-1691
- Title 41 CFR Part 101-19, Subpart 101-19.6
- Title 45 CFR Part 90, Subpart D, Section 90.43(c)(3)
- Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (LEP)
- *Fair Employment and Housing Act*, Government Code, Section 12900 – 12996
- *Dymally-Alatorre Bilingual Services Act* (DABSA), Government Code, Section 7290-7299.

State-imposed Requirements

This policy contains some State-imposed requirements. These requirements are indicated by ***bold italic*** type.

Background

The nondiscrimination and equal opportunity provisions found in Section 188 of WIOA and 29 CFR Part 38 prohibit discrimination on the basis of race; color; religion; sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity); national origin (including LEP); age; disability; political affiliation or belief; or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title I-financially assisted program or activity.

Policy & Procedures

Definitions

For the purpose of the policy, the following definitions apply:

Complaint – An allegation of a violation of the nondiscrimination and equal opportunity provisions.

Recipient – Any entity to which financial assistance under the WIOA Title I is extended, either directly from the Department of Labor (DOL) or through the Governor or another

recipient (including any successor, assignee, or transferee of a recipient), but excluding the ultimate beneficiaries of the WIOA Title I funded program or activity. In addition, One-Stop partners, as defined in Section 121(b) of WIOA, are treated as "recipients" and are subject to the nondiscrimination and equal opportunity requirements of 29 CFR Part 38, to the extent that they participate in the One-Stop delivery system (29 CFR Section 38.4[zz]).

Small recipient – A recipient who serves a total of fewer than 15 beneficiaries during the entire grant year and employs fewer than 15 employees on any given day during the grant year (29 CFR Section 38.4[hhh]).

Nondiscrimination plan – A state-level document that reflects the Governor's commitment to nondiscrimination and equal opportunity provisions of WIOA. The Nondiscrimination Plan replaces the Methods of Administration (MOA) under the Workforce Investment Act (WIA) of 1998.

State Equal Opportunity (EO) Officer – The Employment Development Department's (EDD) EO Officer.

Provisions of the Nondiscrimination Plan

In order to provide a reasonable guarantee of compliance with the nondiscrimination and equal opportunity provisions of Section 188 of the WIOA and 29 CFR Part 38, the Governor must establish and implement a Nondiscrimination Plan for state programs as outlined in 29 CFR Section 38.54(a)(1). Previously known as the MOA under the WIA, the WIOA Nondiscrimination Plan must, at a minimum, describe how the requirements outlined below have been satisfied.

Assurances

Contracts, cooperative agreements, job training plans, and policies and procedures must contain the nondiscrimination assurance specified in 29 CFR Section 38.25 and 38.26. The nondiscrimination assurance must state that the grant applicant will "comply fully with the nondiscrimination and equal opportunity provisions of WIOA" (29 CFR Part 38 Preamble) and acknowledge the government's right to seek judicial enforcement of the nondiscrimination assurance.

Also in accordance with 29 CFR Section 38.25, each application for federal financial assistance under WIOA Title I must include the nondiscrimination assurance. Application for assistance is defined as the process by which required documentation is provided to the Governor, recipient, or DOL prior to, and as a condition of, receiving federal financial assistance under WIOA Title I (including both new and continuing assistance).

EO Officers

AJCC must designate an EO Officer who is responsible for coordinating its obligations under these regulations. ***The State requires that AJCC notify the Equal Employment Opportunity (EEO) Office whenever the designation of the local EO Officer changes.***

AJCC has designated the Manager of Job Seeker Services as the local EO Officer and will assign sufficient staff and resources to the EO Officer to ensure compliance with the nondiscrimination and equal opportunity provisions of WIOA in accordance with Title 29 CFR Part 38.

The EO Officer's responsibilities include:

- Serving as liaison with the EDD EEO Office.

- Investigating and monitoring the organization and its subrecipients' WIOA Title I funded activities and programs.
- Reviewing the organizations and its subrecipients' written policies.
- Developing, publishing, and enforcing the organization's discrimination complaint procedures.
- Conducting outreach and education about equal opportunity and nondiscrimination requirements consistent with 29 CFR Section 38.40, and how an individual may file a complaint consistent with 29 CFR Section 38.69.
- Participating in continuing training and education, and ensuring that assigned staff receive the necessary training and support to maintain competency.
- Informing participants, employees and program beneficiaries of their equal opportunity rights and responsibilities, and how the discrimination complaint process works.

AJCC is required to submit a copy of the local- level EO Officer's position description and organizational chart showing the relationship of the EO Officer to their Local Area Executive Director. The required documents will be mailed annually to:

Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P.O. Box 826880 Sacramento, CA 94280-0001

or, email to EEOMAIL@edd.ca.gov.

The EO Officer's contact information such as name, position title, business address (including e-mail address) and telephone number (voice and Telecommunications Device for the Deaf [TDD], which is also known as a teletypewriter [TTY]) must be publicized at the local level through a variety of means including posters, handouts and listings in local directories. The EO Officer's identity and contact information should appear on all internal and external communications about the recipient's nondiscrimination and equal opportunity programs.

Periodic training is recommended for the EO Officer and assigned staff to keep abreast of equal opportunity issues. Training on nondiscrimination and equal opportunity is available through the State EO Officer.

Small recipients and service providers, as defined in Title 29 CFR Section 38.4, need not designate an EO Officer with the full responsibilities as described above, but must designate an individual who will be responsible for developing and publishing complaint procedures and processing complaints as required by Sections 38.72 through 38.75.

Additionally, the WIOA Title I Governor's Discretionary and Dislocated Worker Additional Assistance subrecipients (excluding Local Areas) are not required to designate an EO Officer, but must designate an individual who will be responsible for adopting and publishing the Employment Development Department (EDD) complaint procedures. Therefore, in lieu of a local complaint procedure, the WIOA Title I Governor's Discretionary and Dislocation Worker Additional Assistance subrecipients must adopt the EDD's nondiscrimination and equal opportunity complaint procedures. The complaint procedures must include the option to file a charge of discrimination directly with the CRC. For more information, contact the State EO Officer at the address listed below:

Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P.O. Box 826880
Sacramento, CA 94280-0001
or, email to EEOMAIL@edd.ca.gov.

Notice and Communication

AJCC must provide initial and continuing notice that it does not discriminate on any prohibited basis. This notice/poster must meet the following criteria:

- Posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient's website pages;
- Disseminated in internal memoranda and other written or electronic communications with staff;
- Included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available;
- Provided to each participant and employee, the notice must be made part of each employee and participants file. It must be a part of both paper and electronic files, if both are maintained.

(29 CFR Section 38.36[a]).

The notice shall be provided in appropriate formats to registrants, eligible applicants/registrants, and applicants for employment and employees and participants with visual impairments. When a notice has been given in an alternate format to registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees with a visual impairment, a record that such notice has been given must be made part of the employee's or participant's file. The notice shall be provided in appropriate languages other than English.

As it concerns communication, AJCC shall indicate that the WIOA Title I-financially assisted program or activity in question is an "equal opportunity employer/program" and that "auxiliary aids and services are available upon request to individuals with disabilities". This will be included on recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically, and/or on paper to staff, clients, or the public at large, to describe programs financially assisted under WIOA Title I or the requirements for participation by such recipients and participants.

Where such materials indicate that the AJCC may be reached by voice telephone, the materials must also provide the TTY number or equally effective communication system, such as a videophone, captioned telephone, or a relay service. The California Relay Service can be reached by dialing 711 or 1-800-735-2922.

Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted programs or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law) and indicate that auxiliary aids and services are available upon request to individuals with disabilities.

AJCC must not communicate any information that suggests, by text or illustration, that AJCC treats beneficiaries, registrants, applicants, participants, employees, or applicants for

employment differently on any prohibited basis, except as such treatment is otherwise permitted under federal law or regulation.

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted programs or activities, whether this be in person or over the internet or using other technology, AJCC shall include a discussion of rights and responsibilities under the nondiscrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38, including the right to file a complaint of discrimination with the recipient or the Director of the CRC. This information shall be communicated in appropriate languages as required in 29 CFR Section 38.9 and in formats accessible for individuals with disabilities as required in 29 CFR Part 38 and specific in Section 38.15.

In California, the Dymally-Alatorre Bilingual Services Act (DABSA) requires that, when state and local agencies serve a “substantial number of non-English speaking people,” they must employ a “sufficient number of qualified bilingual staff in public contact positions” and translate documents explaining available services into their clients’ languages. The DABSA establishes specific legal mandates for state agencies, but allows local agencies discretion in establishing the level and extent of bilingual services they provide.

Data and Information Collection and Maintenance

AJCC must collect and maintain nondiscrimination data. The system and format in which the records and data are kept must be designed to allow the Governor and the CRC to conduct statistical or other quantifiable data analyses to verify the recipient’s compliance with Section 188 of WIOA and 29 CFR Part 38.

Nondiscrimination data must include, but is not limited to, records on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status, of every applicant, registrant, participant, terminee, applicant for employment, and employee. Such information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of any of the following:

- Recordkeeping and reporting;
- Determining eligibility, where appropriate, for WIOA Title I-financially assisted programs or activities;
- Determining the extent to which the recipient is operating its WIOA Title I-financially assisted program or activity in a nondiscriminatory manner; or
- Other use authorized by law.

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection).

LEP and Preferred Language Data

As indicated in 29 CFR Section 38.41, “LEP and preferred language” has been added to the list of categories of information that each recipient must record about each applicant, registrant, eligible applicant/registrant, participant, and terminee. It should be noted that this data collection obligation would not apply to applicants for employment and employees because the obligation to LEP individuals in 29 CFR Section 38.9 does not apply to those

categories of individuals. A recipients' collection of information relates directly to serving (not employing) LEP individuals.

As it related to the collection of "LEP and preferred language" data, the CRC has decided to delay enforcement for two years from the effective date of 29 CFR Part 38, which is January 3, 2017, in order to allow recipients adequate time to update their data collection and maintenance systems. This means that full compliance is required by January 3, 2019, when the CRC will begin enforcing the collection of "LEP and preferred language" data.

Local Area Complaint Log

AJCC must promptly notify the state or CRC when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including LEP), age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I-financially assisted program or activity.

AJCC shall maintain a log of complaints filed that allege discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin, age, disability, political affiliation or belief, citizenship, and/or participation in a WIOA title I- financially assisted program or activity. The log must include the following:

- The name and address of the complainant;
- The basis of the complaint;
- A description of the complaint;
- The date the complaint was filed;
- The disposition and date of disposition of the complaint; and
- Other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

The EDD EEO Office requires a copy of the Local Area complaint log annually (each calendar year). The complaint log will be mailed to the following address:

Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P.O. Box 826880
Sacramento, CA 94280-0001
Or, email to EEOMAIL@edd.ca.gov.

Affirmative Outreach

The guidelines found in 29 CFR Section 38.40 require AJCC to take appropriate steps to ensure that they are providing equal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected by 29 CFR Part 38 including but not limited to persons of different sexes, various racial and ethnic/national origin groups, various religions, LEP individuals, individuals with disabilities, and individuals in different age groups. Such efforts may include, but are not limited to, the following:

- Advertising AJCC's programs and/or activities in media such as newspapers or radio programs, that specifically target various populations;

- Sending notices about openings in AJCC's programs and/or activities to schools or community service groups that serve various populations; and/or
- Consulting with appropriate community service groups about ways in which AJCC may improve its outreach and service to various populations.

Discrimination Prohibited Based on Disability

In providing any aid, benefit, service, or training under a WIOA Title I-financially assisted program or activity, whether directly or through contractual, licensing, or other arrangements, on the basis of disability, AJCC must not do any of the following:

- Deny a qualified individuals with a disability the opportunity to participate in or benefit from the aid, benefit, service, or training, including meaningful opportunities to seek employment and work in competitive integrated settings.
- Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others.
- Provide a qualified individual with a disability with any aid, benefit, service, or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
- Provide different, segregated, or separate aid, benefit, service, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with any aid, benefit, service, or training that is as effective as those provided to others, and consistent with the requirements of the Rehabilitation Act as amended by WIOA, including those provisions that prioritize opportunities in competitive integrated employment.
- Deny a qualified individuals with a disability the opportunity to participate as a member of planning or advisory boards.
- Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service, or training.

Accessibility Requirements

No qualified individual with a disability may be excluded from participation in, or be denied the benefits of a AJCC service, program, or activity or be subjected to discrimination by any recipient because a recipient's facilities are inaccessible or unusable by individuals with disabilities. Recipients that are subject to Title II of ADA of 1990 must also ensure that new facilities or alterations of facilities that began construction after January 26, 1992, comply with the applicable federal accessible design standards, such as the ADA Standards for Accessible Design (1991 or 2010) or the Uniform Federal Accessibility Standards. In addition, recipients that receive federal financial assistance must meet their accessibility obligations under Section 504 of the Rehabilitation Act and the implementing regulations at 29 CFR Part 32. Some recipients may be subject to additional accessibility requirements under other statutory authority, including Title III of the ADA that is not enforced by the CRC. As indicated in Section 38.3(d)(10), compliance with this part does not affect a recipient's obligation to comply with the applicable ADA Standards for Accessible Design.

All WIOA Title I-financially assisted programs and activities must be programmatically accessible. This includes providing reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, administering programs in the most integrated setting appropriate, communicating with persons with disabilities as effectively as with other, and providing appropriate auxiliary

aides or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

Reasonable Accommodation and Reasonable Modifications for Individuals with Disabilities

With regard to any aid, benefit, service, training, and employment, AJCC must provide reasonable accommodations to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. For more information on what would constitute undue hardship as it relates to a reasonable accommodation of individuals with disabilities, please see the definition of “undue burden or undue hardship” found in 29 CFR Section 39.4(rrr)(1).

With regard to any aid, benefit, service, training, and employment, AJCC must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity, which would constitute a fundamental alteration. For more information, see the definition of “fundamental alteration” found in 29 CFR Section 38.4(z).

In those circumstances where AJCC believes that the proposed accommodation would cause undue hardship, or the proposed modification would fundamentally alter the program, AJCC has the burden of proving that compliance with this section would result in such hardship and alteration. AJCC must make the decision that the accommodation would cause such hardship or result in such alteration only after considering all factors listed in the definitions of “undue hardship” and “fundamental alteration”. The decision must be accompanied by a written statement of the AJCC’s reasons for reaching that conclusion. AJCC must provide a copy of the statement of reasons to the individual(s) who requested the accommodation or modification.

If a requested accommodation would result in undue hardship or a modification would result in a fundamental alteration, AJCC must take any other action that would not result in such hardship or such alteration but would nevertheless ensure that individuals with disabilities receive the aid, benefits, services, training or employment provided by AJCC.

In addition, AJCC must take appropriate steps to ensure that communications with individuals with disabilities, such as beneficiaries, registrants, applicants, eligible applicant/registrants, participants, applicant for employment, employees, members of the public, and their companions are as effective as communications with others.

A Reasonable Accommodation Policy and Procedure Guide should be used when processing reasonable accommodation requests. This document contains two sections: (1) provide general guidance and definitions for use when processing reasonable accommodation requests, and (2) provide step-by-step instructions on how to process these requests.

Service Animals

Generally, AJCC shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

Mobile Aids and Devices

AJCC must permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devised designed for use by individuals with mobility disabilities, in any areas open to pedestrian use.

AJCC must make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless AJCC can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that AJCC has adopted.

Complaint Processing Procedures

AJCC's EO Officer must do the following:

- Develop and publish procedures (including alternative dispute resolution) for resolving allegations within the local area for noncompliance with applicable nondiscrimination and equal opportunity provisions;
- Develop and publish procedures for resolving allegations against service providers for noncompliance with applicable nondiscrimination and equal opportunity provisions. The service providers must then follow those procedures. (NOTE: Although AJCC does not have the same contractual jurisdiction with vendors as with service providers, **AJCC shall document the facts of an alleged complaint. The facts should be used to advise the participant of any recourse available and to determine if AJCC should continue to utilize the services of the vendor.**); and
- Establish a logging system to record discrimination complaints.

AJCC's complaint processing procedures specify the following:

1. Any person who believes that he or she or any specific class of individuals has been or is being subjected to discrimination prohibited by the nondiscrimination and equal opportunity provisions of WIOA may file a written complaint by using the Discrimination Complaint Form (Attachment 1), or a representative may also file a complaint on behalf of a person who believes that they have been subjected to discrimination.
2. The complaint may be filed either with the Local Area's EO Officer (or the person designated for this purpose), or directly with the Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue N.W., Room N-4123, Washington, D.C. 20210.
3. A complaint filed, pursuant to Title 29 CFR 38.69, must be filed within 180 days of the alleged discrimination. The CRC, if shown good cause, may extend the filing time. In order to receive an extension, the complainant must be notified that a waiver letter is to be filed with CRC. The waiver letter should include the reason the 180-day time period elapsed. This time period for filing is for the administrative convenience of CRC and does not create a defense for the respondent.
4. Complaints must be filed in writing by completing the Discrimination Complaint Form. All complaints must contain the following information and shall:
 - complainant's name, address, or other means of contacting him or her;
 - identify the respondent;
 - describe the complainant's allegation in sufficient detail to allow CRC or the local area EO Officer, as applicable, to determine whether (1) CRC or AJCC has

- jurisdiction over the complaint; (2) the complaint was filed timely; and (3) the complaint has apparent merit, i.e., whether the allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA; and
 - signature of the complainant or his or her authorized representative.
5. Both complainant and respondent have the right to be represented by an attorney or other individual of his or her choice.
 6. Alternative Dispute Resolution (ADR):
 - a. The complainant must be offered alternative dispute resolution immediately upon receipt of the complaint. The choice whether to use ADR rests with the complainant. The preferred form of ADR is mediation.

What is Mediation?

Mediation is a voluntary process during which a neutral third party assists both parties (complainant and respondent) in communicating their concerns and come to an agreement about how to resolve a dispute.

The mediator does not make decisions, rule as to who is right or wrong, take sides or advocate for one side or the other. The role of the mediator is to help with communication so the parties can reach an understanding about how to best resolve their differences.

As the law allows, mediation proceedings and the information shared are confidential and no information divulged during this mediation may be used in court or in any legal or administrative proceedings.

If the parties do not reach an agreement under ADR, the complainant may file directly with CRC as described in Title 29 CFR Sections 38.69 through 38.72.

- b. A party to any agreement reached under ADR may file a complaint with CRC in the event that the agreement is breached. In such circumstances, the following rules will apply:
 - The non-breaching party may file a complaint with CRC within 30 days of the date on which the non-breaching party learns of the alleged breach.
 - The CRC must evaluate the circumstances to determine whether the agreement has been breached. If the CRC determines that the agreement has been breached, the complainant may file a complaint with the CRC based upon his or her original allegation(s), and the CRC will waive the time deadline for filing such a complaint.

Complaints Filed with AJCC

1. The EO Officer shall issue a written acknowledgement of receipt by the local area of a complaint alleging discrimination by a WIOA Title I recipient and shall include a notice of the complainant's right to representation in the complaint process.

The EDD Equal Employment Opportunity Office requires the EO Officer to forward one copy of the alleged complaint and one copy of the issued Notice of Final Action to the following address:

**Equal Employment Opportunity Office
Employment Development Department
800 Capitol Mall, MIC 49
P.O. Box 826880
Sacramento, CA 94280-0001**

Or, email to EEOMAIL@edd.ca.gov.

2. If the complainant elects not to participate in the ADR process, the EO Officer shall investigate the circumstances underlying the alleged complaint.
3. At any point in the investigation of the complaint, the complainant, respondent, or the AJCC's EO Officer may request that the parties attempt conciliation. The AJCC's EO Officer shall facilitate such conciliation efforts.

What is Conciliation?

Conciliation is a process whereby the parties to a dispute agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions.

If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legally binding contract and falls under contract law.

4. AJCC shall be allowed 90 days to issue a Notice of Final Action. If, during the 90-day period, AJCC issues a decision that is not acceptable to the complainant, the complainant or his or her representative may file a complaint with CRC within 30 days after the date on which the complainant receives the Notice.
5. If the 90 days expire and the complainant does not receive a Notice of Final Action from AJCC, or AJCC failed to issue a Notice of Final Action, the complainant, or his/her representative may, within 30 days of the expiration of the 90-day period, file a complaint with CRC. In other words, the complaint must be filed with CRC within 120 days of the date on which the complaint was filed with AJCC.
6. The CRC may extend the 30-day time limit if the complainant is not notified, as provided in Title 29 CFR Section 38.81, or for other good cause shown.
7. AJCC shall notify the complainant in writing immediately upon determining that it does not have jurisdiction over a complaint that alleges a violation of the nondiscrimination and equal opportunity provisions of WIOA. The Notice of Lack of Jurisdiction must also include the basis for such determination, as well as a statement of the complainant's right to file a written complaint with CRC within 30 days of receipt of the Notice.
8. During the resolution process, the EO Officer shall assure that all parties involved are given due process. These due process elements include:
 - a notice to all parties of the specific charges;
 - a notice to all parties of the responses to the allegations;
 - the right of both parties to representation;
 - the right of each party to present evidence, and to question others who present evidence; and
 - a decision made strictly on the evidence on the record.

Actions by the CRC

1. The CRC determines acceptance of a complaint filed pursuant to Title 29 CFR Section 38.78. When CRC accepts a complaint for investigation, it shall:
 - Notify AJCC and the complainant of the acceptance of the complaint for investigation; and
 - Advise AJCC and complainant on the issues over which CRC has accepted jurisdiction.
2. AJCC, the complainant, or a representative may contact CRC for information regarding the complaint filed.
3. When a complaint contains insufficient information, CRC will seek the needed information from the complainant. If the complainant is unavailable after reasonable efforts have been made to reach him or her, or the information is not provided within the time specified, the complaint file may be closed without prejudice upon written notice sent to the complainant's last known address.
4. The CRC, per WIOA Section 183(c), may issue a subpoena to the complainant to appear and give testimony and/or produce documentary evidence, before a designated representative, relating to the complaint being investigated. Issuing a subpoena can be done any place in the United States, at any designated time and place.
5. Where CRC lacks jurisdiction over a complaint, CRC will:
 - Notify the complainant, explaining why the complaint is not covered by the nondiscrimination and equal opportunity provisions of WIOA or Title 29 CFR Part 38; and
 - Refer the complainant to the appropriate federal, state, or local authority, when possible.
6. The CRC will notify the complainant when a claim is not to be investigated and explain the basis for the determination.
7. The CRC will refer complaints governed by the Age Discrimination Act of 1975 to mediation as specified in Title 45 CFR Section 90.43(c)(3).
8. If the complainant alleges more than one kind of complaint, "joint complaint," e.g., individual employment discrimination, age discrimination, equal pay discrimination, etc., CRC shall refer such joint complaint to the Equal Employment Opportunity Commission for investigation and conciliation under the procedures described in Title 29 CFR, Parts 1690 or 1691, as appropriate. The CRC will advise the complainant and the local area of the referral.
9. Under the AJCC delivery system where the complainant alleges discrimination by an entity that operates a program or activity financially assisted by a federal grant making agency other than DOL, but participates as a partner in a One-Stop delivery system, the following procedures apply:
 - If the complainant alleges discrimination on a basis that is prohibited both by Section 188 of WIOA and by a civil rights law enforced by the federal grant making agency, CRC and the grant making agency have dual jurisdiction over the complaint. The CRC will refer the complaint to the

grant making agency for processing. The grant making agency's regulations will govern the processing of the complaint.

- If the complainant alleges discrimination on any basis that is prohibited by Section 188 of WIOA, but not by any civil rights laws enforced by the federal grant making agency, the CRC has sole jurisdiction over the complaint and will retain and process the complaint pursuant to Title 29 CFR Part 38. The CRC will advise the complainant and AJCC of the retention of the complaint.

10. The CRC may offer the parties of a complaint the option of mediating the complaint. In such circumstances, the following rules apply:

- The mediation is voluntary; both parties must consent before the mediation process will proceed.
- The mediation will be conducted under the guidance issued by CRC.
- If the parties are unable to reach resolution of the complaint through the mediation, the CRC will investigate and process the complaint under Title 29 CFR Sections 38.82 through 38.88.

11. After making such a cause finding, CRC shall issue an Initial Determination. The Initial Determination shall notify the complainant and AJCC, in writing, of:

- The specific findings of the investigation;
- The proposed corrective action or remedial action and the time by which the corrective action or remedial action must be completed;
- Whether it will be necessary for AJCC to enter into a written agreement; and
- The opportunity to participant in voluntary compliance negotiations.

12. Where a no cause determination is made, the CRC must issue a Final Determination to the complainant and AJCC. The Final Determination represents the DOL's final agency action on the complaint.

Complaint Determinations

A Letter of Findings, Notice to Show Cause, or Initial Determination issued pursuant to Title 29 CFR Sections 38.86 or 38.87, 38.88 and 38.89, or 38.90, respectively, must include the steps and the specific time period it will take AJCC to achieve voluntary compliance. (See Section 38.90 for corrective action steps.)

Monetary corrective action may not be paid from federal funds.

If AJCC receives a finding of noncompliance, the following sections of Title 29 CFR Part 38 may be referred to for detailed information:

- Final Determinations, Sections 38.96-38.97
- Breaches of Conciliation Agreements, Sections 38.98 – 38.100
- Subpart E-Federal Procedures for Effecting Compliance, Sections 38.110-38.115

Intimidation and Retaliation Prohibited

No recipient may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any individual because the individual has filed a complaint alleging any of the following;

- A violation of the WIOA;

- Opposed a practice prohibited by the nondiscrimination and equal opportunity provisions of the WIOA;
- Furnished information to, or assisted or participated in any manner in an investigation, review, hearing, or any other activity related to administration of, or exercise of authority under, or exercise of privilege secured by the nondiscrimination and equal opportunity provisions of WIOA or Title 29 CFR Part 38.

The sanctions and penalties contained in these procedures may be imposed against any recipient who engages in any such retaliation or intimidation, or fails to take necessary steps to prevent such activity.

Governor's Oversight and Monitoring Responsibilities for State Programs

The EDD is responsible for the oversight and monitoring of all WIOA Title I-financially assisted state programs. Consequently, the EDD EEO Office will conduct an ANNUAL onsite monitoring review of AJCC. The annual onsite monitoring review will ensure that AJCC is in compliance with the nondiscrimination and equal opportunity provisions of WIOA. The EDD EEO Office will determine whether AJCC is conducting its WIOA Title I-financially assisted program or activity in a nondiscriminatory way.

Additional Components of the Nondiscrimination Plan

The Nondiscrimination Plan must also include the following:

- A system for determining whether a grant applicant, if financially assisted, and/or a training provider, if selected as eligible under Section 122 of WIOA, is likely to conduct its Title I-financially assisted programs or activities in a nondiscriminatory way, and to comply with the regulations in 29 CFR Part 38.
- A review of AJCC policy issuances to ensure that they are nondiscriminatory.
- A system for reviewing AJCC' job training plans, contracts, assurances, and other similar agreements to ensure that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity.
- Procedures for ensuring that AJCC comply with the nondiscrimination and equal opportunity requirements of 29 CFR Section 38.5 regarding race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including LEP), age, political affiliation or belief, citizenship, or participation in any WIOA Title I-financially assisted program or activity.
- Procedures for ensuring that AJCC comply with the requirements of applicable Federal disability nondiscrimination law, including Section 504; Title II of the ADA of 1990, as amended, if applicable; WIOA Section 188, with regard to individuals with disabilities.
- A system of policy communication and training to ensure that EO Officers and members of AJCC's staffs who have been assigned responsibilities under the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 38 are aware of and can effectively carry out these responsibilities.
- Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found.
- Supporting documentation to show that the commitments made in the Nondiscrimination Plan have been and/or are being carried out. This supporting documentation includes, but is not limited to, the following:

- § Policy and procedural issuances concerning required elements of the Nondiscrimination Plan;
- § Copies of monitoring instruments and instructions;
- § Evidence of the extent to which nondiscrimination and equal opportunity policies have been developed and communicated as required by 29 CFR Part 38;
- § Information reflecting the extent to which equal opportunity training, including training called for by 29 CFR Section 38.29(f) and 38.31(f), is planned and/or has been carried out;
- § Reports of monitoring reviews and reports of follow-up actions taken under those reviews where violations have been found, including, where appropriate, sanctions; and
- § Copies of any notices made under 29 CFR 38.34 through 38.40.

Reasonable Accommodation

PURPOSE

The purpose of this guide is to assist AJCC/AJCC subrecipient staff, in processing reasonable accommodation requests. Staff will ensure that reasonable accommodations are provided to qualified individuals with disabilities to enable them to do the following:

- be considered for the aid, benefits, services, training or employment as desired; and/or
- perform the essential functions of their jobs; or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities; and/or
- enjoy benefits and privileges of the aid, benefits, services, training, or employment equal to those that are enjoyed by other similarly situated individuals without disabilities unless providing such accommodation would impose an undue hardship.

The requirement to provide reasonable accommodations applies to disabilities that are known to AJCC/AJCC subrecipient.

The reasonable accommodation process, including a description of key terms, is set forth below and should be implemented immediately.

Key Terms

A. **Reasonable accommodation** means:

1. Modifications or adjustments to an application/registration process that enables a qualified individual with a disability to be considered for the aid, benefits, services, training, or employment that the qualified individual desires.
2. Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities.
3. Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.

B. **Qualified individual with a disability** means:

1. With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question.
2. With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

C. **An applicant** is an individual seeking federally assisted aid, benefits, services, or training. An individual is considered an “applicant” at the point in which they submit personal information in response to a request by AJCC/AJCC subrecipient for such information.

D. **A participant** is an individual who is receiving aid, benefits, services or training under a WIOA Title I or W-P funded program.

E. **A disability** means the following, with respect to an individual:

1. “Medical condition”:
 - a. Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.
 - b. Genetic characteristics. For purposes of this section, “genetic characteristics” means either of the following:
 - i. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.
 - ii. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.
2. “Mental disability” includes, but is not limited to, all of the following:
 - a. Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
 - i. “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - ii. Mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
 - iii. “Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.

Any other mental or psychological disorder or condition not described in paragraph (a) that requires special education or related services.

- b. Having a record or history of a mental or psychological disorder or condition described in paragraph (a) or (b), which is known to the employer or other entity covered by this part.
- c. Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- d. Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (a) or (b).

“Mental disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

3. "Physical disability":
 - a. Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - i. Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
 - ii. Limits a major life activity. For purposes of this section:
 - "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
 - "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
 - b. Any other health impairment not described in paragraph (a) that requires special education or related services.
 - c. Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (a) or (b) which is known to the employer or other entity covered by this part.
 - d. Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.
 - e. Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (a) or (b).
 - f. "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.
- F. **Essential eligibility requirements** are such criteria that can be shown to be necessary for the provision of the aid, benefit, service, training, program, or activity being offered.
- G. **Essential functions** means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.
 1. A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:
 - a. The function may be essential because the reason the position exists is to perform that function.
 - b. The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

- c. The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.
2. Evidence of whether a particular function is essential includes, but is not limited to the following:
 - a. The employer's judgment as to which functions are essential.
 - b. Written job descriptions prepared before advertising or interviewing applicants for the job.
 - c. The amount of time spent on the job performing the function.
 - d. The consequences of not requiring the incumbent to perform the function.
 - e. The terms of a collective bargaining agreement.
 - f. The work experiences of past incumbents in the job.
 - g. The current work experience of incumbents in similar jobs.
- H. **Fundamental alteration** means a change in the essential nature of a program or activity, or a cost that AJCC/AJCC subrecipient can demonstrate would result in an undue burden. Factors to be considered in determining whether a requested modification would result in a fundamental alteration are referenced in Step 3 of this process (described later in the *Step by Step Process* section of this guide).
- I. **Major life activities** mean functions such as: caring for one's self; performing manual tasks; walking; seeing; hearing; speaking; breathing; learning; and/or working.
- J. **Undue hardship** means an action requiring significant difficulty or expense, when considered in light of the following factors:
 1. The nature and cost of the accommodation needed.
 2. The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.
 3. The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.
 4. The type of operations, including the composition, structure, and functions of the workforce of the entity.
 5. The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

Effective Communication & Other Assistance

AJCC/AJCC subrecipient shall be responsible for ensuring effective communication between the qualified individual with a disability and AJCC/AJCC subrecipient staff throughout the reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. In addition, AJCC/AJCC subrecipient shall also be responsible for providing such other reasonable assistance as is requested throughout the reasonable accommodation process, as well as through the process of any necessary appeals.

Confidentiality

A. **AJCC/AJCC Subrecipient must maintain confidentiality.** All documentation and information concerning the medical condition or history of an individual with a disability requesting an accommodation must be collected on forms separate from other forms related to that individual, and must be maintained by AJCC/AJCC subrecipient in separate medical files. The information shall be treated as confidential medical records, and access to the records must be limited, except to the extent that:

1. AJCC/AJCC subrecipient management must be informed about work restrictions or reasonable accommodations;
2. The first-aid and safety personnel need to be informed if the disability may require emergency treatment; and
3. Government officials investigating compliance with law are required to be provided with relevant information upon request.

What Accommodations Are Reasonable?

The reasonableness of an accommodation will depend upon the circumstances of each case. For additional clarification as to what are reasonable accommodations in the employment context, refer to 29 CFR Part 32. Reasonable accommodations include, but are not limited to:

- Making facilities that are not otherwise required to comply with Federal accessibility standards physically accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage);
- Restructuring of job or training tasks (e.g., reallocating nonessential typing, telephone, or other clerical assignments among employees, assignment of nonessential tasks to others, eliminating non-essential tasks, etc.);
- Modifying schedules (e.g., permitting alternative starting and ending times to avoid standing and jostling on subways);
- Providing or modifying equipment, devices or materials (e.g., raising a desk on boards for a person who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones [tty], providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape, or enlarged print, etc.); and
- Providing qualified readers, interpreters, or other support services for all aspects of programs and activities including the application, interview, and testing processes, and during training and employment-related activities.

Reasonable accommodation may also include permitting the individual with a disability to use aids or services that AJCC/AJCC subrecipient is not otherwise required to provide. For example, although a local entity generally would not be required to provide a motorized scooter to an individual with mobility impairment, reasonable accommodation may include providing an area to stow such a mobility aid, if necessary.

AJCC/AJCC subrecipient is not required to provide personal items to individuals with disabilities. Such items include hearing aids, prosthetic limbs, wheelchairs, or eyeglasses. However, such items may constitute reasonable accommodation where they are specifically designed to meet needs that are related to the program or activity in which the person is participating, or the job the person is performing. For example, eyeglasses

designed to enable the individual to view a computer monitor, but which are not otherwise needed outside of the program or activity in which the person is participating, or the job the person is performing, may constitute a reasonable accommodation.

Where more than one possible reasonable accommodation exists, AJCC/AJCC subrecipient should give primary consideration to the individual's preference in determining what accommodation it will provide.

As noted above, some requests for reasonable accommodation can be granted and implemented immediately following their receipt, without formal evaluation, consistent with this procedure. Such may be the case where the individual identifies any requested accommodation with specificity. For example, an employee who is deaf and routinely uses a text telephone (TTY) can readily identify a job-related limitation, as well as the accommodation needed. Where it is obvious that providing the TTY will enable the individual to meet the job's essential functions, the TTY can be ordered, provided and documented without the more comprehensive analysis provided for in Steps 2 and 3 (described later in the *Step by Step Process* section of this guide.) In these cases, the reasonable accommodation process is merely compressed; it is not eliminated.

Accommodations may be considered "unreasonable" only if they impose an undue hardship for AJCC/AJCC subrecipient. For example, shifting tasks among clerical employees to accommodate an employee with a disability may be reasonable where a sufficient number of employees exist among whom the tasks can be distributed; however, such an accommodation may be unreasonable in a very small office with few employees. The factors listed in the definition of "undue hardship" in 29 CFR 38.4(rrr) must be considered in making this determination.

If a requested accommodation would result in undue hardship, AJCC/AJCC subrecipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by AJCC/AJCC subrecipient.

Step by Step Process

Step 1: Individual with a disability requests reasonable accommodation:

Initial consultation

The individual with a disability should submit a reasonable accommodation request to designated staff. If a request for reasonable accommodation is made to facilitate the application process, the AJCC/AJCC subrecipient manager supervising the application process should assist where requested and, in conjunction with staff, process the request for accommodation. The AJCC/AJCC subrecipient manager receiving the request shall acknowledge each request in writing. The current request for reasonable accommodation shall not preclude the submission of subsequent requests.

Generally, it is the responsibility of the individual with a disability to inform AJCC/AJCC subrecipient of the need for an accommodation. Reasonable accommodation must be provided for disabilities that are known. Nevertheless, once AJCC/AJCC subrecipient is aware of an individual's disability, it may have the responsibility to initiate discussions about reasonable accommodation and set these procedures in motion.

Where the need for a requested accommodation is not apparent, the AJCC/AJCC subrecipient manager supervising the application process may ask the individual to provide

documentation in support of the request. For example, if the individual with dyslexia requests additional time within which to complete a timed, written entrance qualifying examination, that individual may be asked to provide documentation in support of that request.

Similarly, if an individual with a mental disability requests a flexible schedule to attend psychotherapy during the work day, the individual may be asked to provide documentation from the treating professional in support of that request.

After acknowledging a request for accommodation, the AJCC/AJCC subrecipient manager should either:

- provide or implement the request and document the accommodation; or
- proceed to Step 2.

Step 2: Consult with the individual request a reasonable accommodation

The reasonable accommodation process sometimes can be accomplished without a formal analysis of the individual's limitations and AJCC's/AJCC's subrecipient resources, as in the example provided above, where an individual's desk is elevated on blocks to permit access from a wheelchair. Other situations are more complex, however, and require structured analysis. In these instances, upon receipt of a request for reasonable accommodation, AJCC/AJCC subrecipient will consult with the individual requesting the accommodation to assess the limitations of the disability and how the individual may best be involved in the accommodation process.

Using a collaborative, open and flexible approach, AJCC/AJCC subrecipient will consider how any limitations can be overcome, discuss possible reasonable accommodations, and assess the effectiveness of each. Other possible resources to consult with throughout this process include, but are not limited to, the following:

- the Job Accommodation Network (JAN), which can be reached at 1-800-526- 7234 or by accessing their website at askjan.org; or
- the California Committee on Employment of People with Disabilities at the Department of Rehabilitation which can be reached at 855-894-3436 or via email at: CCEPD@dor.ca.gov.

AJCC will consider the individual's preferences, along with what is reasonable and does not impose an undue hardship.

The circumstances, in which documentation can be requested, as well as the procedure for requesting such documentation, are as follows:

- A. When the disability and/or the need for accommodation are not obvious, AJCC/AJCC subrecipient staff may ask the individual for reasonable documentation about his/her disability and functional limitations.

Reasonable documentation means that AJCC/AJCC subrecipient may require only the documentation that is needed to establish that a person has an actual, current disability, and that the disability necessitates a reasonable accommodation. However, AJCC/AJCC subrecipient, in response to a request for reasonable accommodation, cannot ask for documentation that is unrelated to determining the existence of a disability and the necessity for an accommodation.

AJCC/AJCC subrecipient staff may require that the documentation about the disability and the functional limitations come from an appropriate health care or rehabilitation

professional. The appropriate professional in any particular situation will depend on the disability and the type of function limitation it imposes. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologist, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

In requesting documentation AJCC/AJCC subrecipient staff should specify what types of information they are seeking regarding the disability, its functional limitations, and the need for reasonable accommodation. For example, the person can be asked to sign a limited release allowing AJCC/AJCC subrecipient to submit a list of specific questions to the health care or vocational professional.

AJCC/AJCC subrecipient must maintain the confidentiality of all medical information collected during this process, regardless of where the information comes from.

1. It is unlawful except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.
 2. Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.
 3. Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job-related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.
 4. It is unlawful except as provided in paragraph (5), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make an inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.
 5. Notwithstanding paragraph (4), an employer or employment agency may require any examinations or inquiries that it can show to be job-related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that worksite.
- B. If a person provides insufficient documentation of a disability in response to AJCC's/AJCC's subrecipient initial request, staff may require the person to go to a health care professional of AJCC's/AJCC's subrecipient choice. However, staff should explain why the documentation is insufficient and allow the person an opportunity to provide the missing information in a timely manner.

Please note that under the Federal disability nondiscrimination law, AJCC/AJCC subrecipient staff cannot ask for documentation under the following circumstances:

- Both the disability and the need for reasonable accommodation are obvious; or
- The person has already provided sufficient information to substantiate they have an actual, current disability and needs the reasonable accommodation requested.

If the individual's disability or need for reasonable accommodation is not obvious and they refuse to provide the reasonable documentation requested by staff, then they are not entitled to reasonable accommodation. On the other hand, failure by AJCC/AJCC subrecipient to initiate or participate in an interactive process with the individual after receiving a request for reasonable accommodation could result in liability for failure to provide a reasonable accommodation.

Step 3: AJCC/AJCC subrecipient management and/or designated staff analyzes the request for reasonable accommodation

After consulting with the individual with a disability, AJCC/AJCC subrecipient will examine the request and determine if the requested accommodation is feasible and does not create an undue hardship or result in a fundamental alteration.

***Note:** If a requested accommodation would result in undue hardship, AJCC/AJCC subrecipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by AJCC/AJCC subrecipient (29 CFR Section 38.14[a][3]).*

It is unlawful for an employer or other entity covered by the WIOA, Section 188, 29 CFR part 38, W-P Act, the Americans with Disabilities Act (ADA), and the Fair Employment and Housing Act (FEHA), to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

The factors to be considered in determining whether an accommodation would impose an undue hardship or in determining whether the cost of a modification would result in a fundamental alteration includes the following:

- A. The nature and net cost of the accommodation/modifications needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation/modification;
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation/modification, including:
 1. The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and
 2. The effect the accommodation/modification would have on the expenses and resources of the facility or facilities;
- C. The overall financial resources of AJCC/AJCC subrecipient, including:
 1. the overall size of AJCC/AJCC subrecipient;
 2. the number of persons aided, benefited, served, trained, or employed by AJCC/AJCC subrecipient; and
 3. the number, type and location of AJCC's/AJCC's subrecipient facilities;

- D. The type of operation or operations of AJCC/AJCC subrecipient, including:
 - 1. The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the local entity; and
 - 2. Where the individual is seeking an employment related accommodation/modification, the composition, structure and functions of the local entity's workforce; and
- E. The impact of the accommodation/modification upon the operation of the facility or facilities including:
 - 1. The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and
 - 2. The impact on the facility's ability to carry out its mission.

It is unlawful for an employer or other entity covered by the WIOA Section 188, 29 CFR part 38, W-P, ADA, and the FEHA, to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this document shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship to its operation.

Step 4: Select and implement an appropriate reasonable accommodation

Within 10 business days of receipt of a request for reasonable accommodation, AJCC shall either grant or deny the request in writing. Provisions of this accommodation should commence immediately. If a requested accommodation would result in undue hardship, AJCC/AJCC subrecipient must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the aid, benefit, service, training, or employment provided by AJCC/AJCC subrecipient (29 CFR Section 38.14[a][3]).

Where the provision or implementation of a reasonable accommodation will take longer than 10 business days, the steps taken to order, secure or carry out the accommodation shall be documented and discussed with the individual requesting a reasonable accommodation. In all instances, however, AJCC/AJCC subrecipient will act as expeditiously as possible to provide reasonable accommodations.

Where further supporting documentation has been sought from the individual requesting a reasonable accommodation, the grant or denial of a request for reasonable accommodation shall be rendered as noted below:

- A. for those cases in which medical documentation is necessary in order to understand the individual's limitations and what accommodations are possible, the grant or denial shall be issued within 10 business days of receipt of the requested documentation;
- B. for those cases in which the documentation is being requested merely to verify the information provided by the individual with a disability, the grant or denial shall be issued within 5 business days of receipt of the requested documentation; and
- C. for those cases in which the individual refuses to provide reasonable requested documentation, the grant or denial shall be issued within 5 business days of the notification of refusal.

Where AJCC/AJCC subrecipient determines to deny a request for accommodation, or to provide an accommodation other than the individual's expressed preference, AJCC/AJCC subrecipient will first consult with the individual requesting the reasonable accommodation.

AJCC/AJCC subrecipient will document the determination in writing. Where the determination is to deny the request on the basis of undue hardship or fundamental alteration, the proposed alternative accommodation or modification will also be documented.

What if an appropriate reasonable accommodation cannot be identified?

Sometimes, AJCC/AJCC subrecipient, or the individual requesting the reasonable accommodation, cannot identify possible reasonable accommodations. In those instances, AJCC/AJCC subrecipient will consult with appropriate resources e.g., those listed in Step 2 of these instructions. AJCC/AJCC subrecipient will seek to facilitate effective communication between the parties with the goal of identifying and implementing appropriate reasonable accommodation and, where a reasonable accommodation has been selected, shall monitor its implementation.

Throughout the Step 2 consultation process, the individual, and AJCC/AJCC subrecipient may seek technical assistance or clarification of each component of the reasonable accommodation process from appropriate resources.



February 8, 2018

To: Workforce Development Board

From: Megan Crable, Business Services Representative

Re: Layoff Aversion Activities for January 2018

At the direction of the Workforce Development Board the following top 3 priorities for the layoff aversion activities are:

- 1) **Business Services Workshops:** 11/15/18 8:30 am to 4:30 pm EDD Fed/State Tax Seminar (First time in San Benito County) and I will attend “Monday Brew & Perks” Small Business Roundtable Possible Presentation/ED
- 2) **Job Search:** 4/12/18 3:00 – 7:00 pm Job Fair & Business Expo

AJCC/EDD Job Recruitments:

- | | |
|-----------------------------|-------------|
| a. Midnight Express | 2 Openings |
| b. San Benito Foods | 10 Openings |
| c. YMCA San Benito County | 6 Openings |
| d. Performance Food Service | 2 Openings |
| e. Rite Aid/Walgreens | 2 Openings |
| f. OfforjebeCare | Multiple |
- 3) **Business Engagement:** Monthly Business Services Team Meetings- recent one was held on 1-25-18 at AJCC w/ EDD/Vet Prep/County.



Michael Rossi, Chair ▪ Tim Rainey, Executive Director ▪ Edmund G. Brown, Jr., Governor

December 17, 2017

Kris Stadelman, Executive Director
NOVA
505 W Olive Ave Suite 550
Sunnyvale, CA 94086

Dear Ms. Stadelman,

Congratulations! The California Workforce Development Board (CWDB) and the Employment Development Department (EDD) are pleased to inform you that the Regional Plan Implementation (RPI) Application submitted on behalf of the Bay-Peninsula Regional Planning Unit (RPU) has been approved for funding in the amount of **\$500,000.00**. This funding is for RPI work for the grant period of **January 1, 2018 through June 2019**. The use of funds awarded in the RPI RFA are governed by the Workforce Innovation Opportunity Act and its associated federal regulations, state and federal directives, and the federal Office of Management and Budget (OMB) Guidance for Grants and Agreements.

The approved grant funded amount will be distributed in two phases and require the RPU to submit applicable update/revised and/or new documents to initiate the applicable phase. CWDB and our colleagues at the EDD will be working closely with the region to develop and execute your subgrant agreement.

Phase One:

In order to expedite the initial contracting process the CWDB and EDD are requesting that your region revise and resubmit the following forms from your original RPI application for the "approved" funded amount.

- Budget Summary (Form F)
- Budget Detail (Form B)
- Supplemental Budget (Form G)

Submission of these updated/revised forms will assist with the **initial** development of the RPU subgrant and release 10% of the approved funded amount which will provide funding for your region to revise and clarify the scope of work. The updated/revised forms must be sent to Gloria Earl via email: Gloria.earl@cwdb.ca.gov by **Wednesday, January 10, 2018**.

Phase Two:

In order to execute the modified RPI subgrant agreement and release the remaining funding, the RPU **must** update and complete a summary of the products and deliverables the region will achieve. Below this letter is a summary of the funding recommendation, initial outcomes/ deliverable included in the application, funding contingencies and a list of items that will need clarification. Please review in its entirety and clarify/modify the RPI work plan as necessary to ensure your RPI objectives/activities are clear, measureable and reflect the work agreed to by the region and their partners. Be sure to review/revise all the following forms submitted with your application to ensure they reflect the RPI work to be done:

- Budget Summary (Form F)
- Budget Detail (Form B)

- Supplemental Budget (Form G)
- Workplan - (Form I)
- Implementation Work plan - (Form 3) - Must outline specific products to be developed or deliverables to ensure that “actionable” outcomes and deliverables that are identified will be achieved along with *quarterly* completion dates. Some examples of the outcomes associated with the RPI subgrants are:
 - **Demand-Side Outcomes:**
 - Industry-Champions: recruitment, engagement and leadership by industry leaders in demand sectors
 - Sector Strategies: Establishing, strengthening and/or expanding sector strategy in one or more demand industry
 - Credentials: Development of and implementation of Industry Recognized Credentials and specialty curriculum in targeted sectors
 - Piloting the measurement of employer engagement in demand sectors using one or more of the WIOA employer performance measures. Regions may pilot and test methods of measuring (1) Employer Penetration Rate; (2) Employer Retention and/or (3) Repeat Business Customers in their region’s targeted industry sectors.
 - Promotion of Job Quality: Services and strategies developed and implemented to promote job quality
 - **Supply-Side Outcomes:**
 - Partnerships: recruiting and engaging leadership of education (Community Colleges & Adult Ed Block Grant), workforce development, economic development, labor, Corrections and Parole systems, CBO’s, Division of Apprenticeship Standards, and other supply side partners and identifying roles and responsibilities for organizing the effort to build a ready to workforce.
 - Expanding and scaling existing Workforce Accelerators projects across a region
 - Products: including asset maps, regional MOUs; regional administrative efficiencies (ex. Regional ETPL)
 - Services and strategies implemented to remove barriers to employment
 - Unified approach to business services and employer outreach and engagement

Additionally, the regions **must** complete two new mandatory exhibits:

- RPI Quarterly Expenditure Plan (Exhibit E) - *NEW*
- Partner Roles and Responsibilities - (Exhibit J) – *NEW*

The Phase Two required forms/exhibits along with the requested clarification must be submitted to Gloria Earl via email: Gloria.earl@cwdb.ca.gov with CWDB by **Wednesday, January 31, 2018**.

If you have any questions or need assistance with clarifying your actionable outcomes/deliverables, please contact Robin Purdy (Robin.Purdy@seta.net) and Gloria Earl (Gloria.Earl@cwdb.ca.gov).

Sincerely,



Tim Rainey, Executive Director

Attachments:

Cc:

- Local Board Directors
- Regional Organizer
- Regional Advisor
- State Board Staff
- Joelle Hurst, CWDB
- Lisa Buchanan, EDD

Regional Plan Implementation Summary and Funding Recommendation	
Regional Planning Unit:	Bay Peninsula
Regional Plan Implementation Summary	Bay-Peninsula RPU is focusing on 2 goals: employer engagement through the development of a regional business services team and system alignment. Funds are requested to fund a business service rep at each local board, a planning retreat and training for staff. The regional business services team could really change the way that the boards work together, but more clarity is needed in the plan on the “how” the region plans to achieve this goal of an integrated approach to employers. There are no matching funds and no sustainability plan for continuing the staff beyond the grant.
Outcomes/Deliverables	<p>Supply-side Outcomes:</p> <ul style="list-style-type: none"> • Partnership expansion resulting in a sustainable Regional Alliance • Administrative efficiencies: Increased use of technology to leverage partners and stakeholders • Unified approach to employer engagement • Common collateral material, "elevator pitch, and presentation used by business engagement staff Inventory of Training Resources and training for staff • Analysis of fee for service as sustainability plan.
Funding Recommendation	\$500,000
Funding Contingencies	Recommend initial funding of 10% of award (\$50,000) for the region to use to develop a work plan to achieve cooperation and alignment of local boards business service staff to form a regional business services team focusing on one or more targeted industry sectors and aligned with SlingShot efforts in the region, and more details on proposed fee-for-service
Requested Clarification	Clarify how region plans to ensure an integrated approach to business services, how regional plan implementation will be aligned with SlingShot investments in asset mapping and sector work, and the plan for sustaining the regional approach to business services after the grant ends.

From: [Sylvia Jacquez](#)
To: [Andi Anderson](#)
Subject: FW: Prop 39
Date: Wednesday, February 07, 2018 4:52:54 PM

Please enclose this email in the WDB agenda packet. Thanks.

From: Donnelly, Chris x6644 [mailto:DonnellyC@co.monterey.ca.us]
Sent: Wednesday, February 07, 2018 12:56 PM
To: Sylvia Jacquez
Subject: RE: Prop 39

Hi Silvia,

For the next Round of prop 39;

\$28,093 for case management
\$829 for WID oversight

FYI we received a 25K reduction in funding from last year.

Chris

CHRIS DONNELLY
Executive Director
Workforce Development Board
1441 Schilling Place, North | Salinas, CA 93901
Telephone: (831) 759-6644 | Facsimile: (831) 796-3321
Donnellyc@co.monterey.ca.us

From: Sylvia Jacquez [mailto:SJacquez@cosb.us]
Sent: Wednesday, February 07, 2018 8:12 AM
To: Donnelly, Chris x6644 <DonnellyC@co.monterey.ca.us>
Subject: Prop 39

Good morning Chris, can you verify our award so I can share with our WDB at our upcoming board meeting? Thanks.

Sylvia Jacquez
Program Manager
San Benito County



April 12, 2018

"Job Fair & Business Expo"
3:00 - 7:00 PM

Veteran's Memorial Building



The Chamber will be giving away four FREE Booths for this event to Chamber Non-profit Groups.

If you are interested in participating please email below.

You must let us know by February 13th if you want to be entered into the drawing for the FREE booths.

Winners will be drawn at the "Business After Hours Mixer" on February 14th at Fairfield Inn

Juli Vieira, CEO

[Email Me!](#)

Live, Work, Play and Shop SBC

02.13.18 - One Stop Operator Update

As you may know, the Workforce Development Board selected Mr. David Mirrione to serve as the WIOA One Stop Operator via a Request for Qualifications in June of 2017. The purpose of the One Stop Operator in San Benito County is to convene quarterly partner meetings to ensure effective delivery of services to shared customers, coordinate service delivery amongst all AJCC partners and service providers, facilitation between service providers of shared goals, ensure the implementation of partner responsibilities and contributions, and the preparation of meeting agendas and minutes. Mr. Mirrione has served as the Workforce Development Board Director for the County of Santa Cruz and currently leads the Workforce Development Board of Merced County.

To date, Mr. Mirrione has held two quarterly meetings, toured the One Stop, and issued multiple surveys to determine the common goals of the One Stop Partners and to seek ways to better partner and leverage services for a richer customer experience. Mr. Mirrione developed recommendations for service delivery improvements based on these surveys and rich conversations at AJCC partner meetings. In the third quarter of 2017-18, Mr. Mirrione will finalize this improvement plan with the service providers to set priorities and develop a timeline to implement the agreed upon changes. These meetings have been very positive and well attended by all partner and AJCC staff. The next meeting will be held on March 7, 2018 at the AJCC.

January 2018

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February 2018

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March 2018

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April 2018

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Workforce Development Board

1111 San Felipe Road, Hollister, CA 95023

May 2018

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June 2018

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July 2018

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

August 2018

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

No Meeting in August

September 2018

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

October 2018

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

November 2018

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

December 2018

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					



MEMORANDUM

February 13, 2018

TO: Workforce Development Board (WDB) Members

FROM: Sylvia Jacquez, Program Manager; Enrique Arreola, Deputy Director

SUBJECT: Summary of EDD Workforce Services Directives and Workforce Services Information Notices

Background/Summary: Directives provide policy and guidance regarding various Workforce Services program requirements, funding and activities for EDD Workforce Services Staff and Workforce Partners.

Background/Summary (Information Notices): The Employment Development Department (EDD) issues Workforce Services Information Notices (WSIN) to disseminate announcements, general information, and procedural guidance on departmental programs for EDD staff, workforce partners, stakeholders, and other individuals in the workforce development system. Through the Workforce Innovation and Opportunity Act and the Wagner-Peyser Act, the EDD administers program for veterans, youth, dislocated workers, people with disabilities; including Trade Adjustment Assistance, CalJOBSSM, employer incentives and more. Directives provide policy and guidance regarding various Workforce Services program requirements, funding, and activities for EDD Workforce Services Staff and Workforce Partners.

Workforce Service Directives		<i>There are no updates for 2018</i>
WSD17-17	VETERANS' EMPLOYMENT-RELATED ASSISTANCE PROGRAM – SFP The Employment Development Department (EDD), in coordination with the California Workforce Development Board and the California Labor and Workforce Development Agency, announces the availability of up to \$5 million of Workforce Innovation and Opportunity Act (WIOA) funds in a Veterans' Employment-Related Assistance Program (VEAP) Solicitation for Proposals (SFP).	
Workforce Services Information Notices		
WSIN17-21	2018 BUILDING WORKFORCE PARTNERSHIPS CONFERENCE This year's conference will focus on the state of regional coordination efforts, continuing professional development for business engagement practitioners, and sector-based career pathways integration across regions. Information will be shared on the following topics: <ul style="list-style-type: none">· Workforce regional initiatives and how to connect in sectors such as healthcare, transportation, construction, manufacturing, and hospitality.· Technical assistance with the implementation of new tools and resources, including updates to Econovue and the CalJOBSSM Customer Relationship Management and Greeter modules.· Best practices and progress in disaster response programs after this year's efforts.· Leveraging community college, K-12, and community-based partnerships to meet the education and training needs of affiliate members.	
WSIN17-22	BARRIERS TO EMPLOYMENT AND LGBT DATA COLLECTION On October 15, 2017, Governor Edmund J. Brown signed the Transgender Work Opportunity Act (Senate Bill 396). This state law amends California Unemployment Insurance Code Section 14005 to add a new population under the Workforce Innovation and Opportunity Act (WIOA) definition of individuals with barriers to employment. Effective January 1, 2018, transgender and gender nonconforming individuals are included as one of the populations who face employment barriers under WIOA Section 3(24)(N). The WIOA emphasizes serving those with barriers to employment. This state law will allow Local Workforce Development Areas to target and provide employment and training services to more disadvantaged populations.	

	America's Job Center of California SM (AJCC) staff may recognize individuals who voluntarily disclose their transgender identity by selecting "other groups as the Governor determines to have barriers to employment" on the WIOA application in CalJOBSSM.
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Enrique Arreola, Deputy Director
San Benito County Workforce Development Board (WDB)

02/08/18

Date